

SUPREME COURT OF NOVA SCOTIA

Citation: ExxonMobil Canada Ltd. v. Carpenter, 2011 NSSC 445

Date: 20111201

Docket: Hfx No. 341459

Registry: Halifax

Between:

ExxonMobil Canada Ltd.

Applicant

and

Cynthia Carpenter and Nova Scotia Human
Rights Commission

Respondents

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Judge: The Honourable Justice Gerald R. P. Moir

Heard: October 26, 2011

Subjects: Judicial review; *Human Rights Act*; Extension of time to make a complaint

Summary: A complaint of a violation of the *Human Rights Act* must be made within twelve months of the violation. Counsel for Ms. Carpenter contacted the commission before expiry of the period. After expiry, counsel and commission staff discussed extending an administratively imposed twenty-eight day deadline for completing a questionnaire. Later, staff informed counsel of the statutory twelve month deadline. The Director has a discretion to extend the statutory period in "exceptional circumstances". Ms. Carpenter applied. Exxon was notified of the application, but it was not provided with all the record or any of Ms. Carpenter's submissions. The extension was granted on the basis that commission staff had caused confusion about the statutory deadline.

Issues: (1) Ought the decision be set aside for procedural unfairness?
(2) What is the standard of review on the "exceptional circumstances" decision? (3) The outcome of that review.

Results: (1) The decision should be set aside for procedural unfairness. This is not a case for exercising the overriding discretion to avoid injustice. (2) The standard is reasonableness. (3) The decision was unreasonable in the sense of unjustified. The discussions with commission staff had nothing to do with the statutory deadline.

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